

AMENDED IN ASSEMBLY MAY 28, 2010

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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2027

**Introduced by Assembly Members Blumenfield and Cook
(Principal coauthor: Assembly Member Torlakson)**

February 17, 2010

An act to add Section 46300.8 to the Education Code, relating to online education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2027, as amended, Blumenfield. Online education: school attendance.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on the average daily attendance of pupils at the schools operated by those agencies. Numerous statutes and regulations govern the calculation and reporting of average daily attendance.

This bill, commencing with the ~~2011–12~~ 2012–13 fiscal year, would provide that school districts, county offices of education, and charter schools that offer online education courses may claim attendance toward average daily attendance on the basis of a pupil's attendance in an online class or classes that satisfy prescribed criteria.

The bill would require the Superintendent of Public Instruction, in consultation with the Director of Finance, on or before December 31, 2011, to make revisions to any attendance accounting manual or guidance provided to school districts, county offices of education, or

charter schools that are necessary to conform to these provisions, or to clarify these provisions with respect to attendance accounting procedures for asynchronous online courses, *as defined*. The bill additionally would require the Superintendent to adopt rules and regulations for the ~~purpose~~ *purposes* of clarifying or expanding the procedures required for verifying the identification of pupils participating in asynchronous online courses *and including pupil attendance in asynchronous online education courses in the calculation of average daily attendance*.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 46300.8 is added to the Education Code,
2 to read:
3 46300.8. (a) Commencing with the ~~2011–12~~ *2012–13* fiscal
4 year, a school district, county office of education, or charter school
5 may claim attendance toward average daily attendance, for the
6 purposes of calculating average daily attendance pursuant to
7 Section 46300, on the basis of a pupil's attendance in an online
8 class or classes if all of the following apply:
9 (1) The pupil is enrolled in grade 9, 10, 11, or 12.
10 (2) The pupil is enrolled in classes that include courses in a
11 classroom-based setting, courses that are offered through an online
12 program, or both.
13 (3) The pupil meets minimum instructional time requirements
14 pursuant to:
15 (A) Section 46141 and Section 46201, 46201.5 or 46202, as
16 applicable, for pupils enrolled in a noncharter school in a school
17 district or county office of education.
18 (B) *Section 46170, for pupils enrolled in a continuation school.*
19 (C) *Section 46180, for pupils enrolled in an opportunity school.*
20 ~~(B)~~
21 (D) Subdivision (e) of Section 47612.5 for pupils enrolled in a
22 charter school.
23 (4) Each online course in which the pupil is enrolled is a
24 high-quality online course.
25 (b) For the purposes of this section, a high-quality online course
26 is defined as an online course that meets all of the following
27 requirements:

1 (1) The online course is approved by the governing board of
2 the school district or county office of education, or the governing
3 body of the charter school.

4 (2) The online course is certified to meet these requirements,
5 through board resolution, by the governing board of the school
6 district or county office of education, or the governing body of the
7 charter school.

8 (3) Either of the following:

9 (A) The teacher is online at the same time as each pupil, is
10 accessible to each pupil attending the synchronous online course
11 to respond to pupil queries, assign tasks, and dispense information,
12 and is able to make a line-of-sight visual connection with each
13 pupil for the purposes of verifying attendance or providing
14 immediate supervision of the pupil.

15 (B) The teacher is online at different times as each pupil, is
16 accessible to each pupil attending the asynchronous online course
17 to respond to pupil queries, assign tasks and dispense information,
18 and for the purposes of verifying attendance is able to employ at
19 least ~~one~~ *two* of the following:

20 (i) Periodic proctored examinations.

21 (ii) Biometric verification.

22 (iii) A line-of-sight visual connection including, but not limited
23 to, Internet Webcam.

24 (4) The ratio of full-time equivalent certificated teachers
25 teaching the online course to pupils enrolled in that course is
26 greater than or equal to the ratio of teachers to pupils in traditional
27 classroom study of the same subject matter in the school, school
28 district, or the unified school district with the largest average daily
29 attendance of pupils in that county.

30 (5) The teacher of the online course has taught the same course
31 to pupils in a traditional classroom setting or in an online setting
32 at any time within the immediately preceding two-year period.

33 (6) The subject matter content is the same for the online course
34 as for the traditional classroom-based course in the school, school
35 district, or the unified school district with the largest average daily
36 attendance of pupils in that county.

37 (7) The teacher of the online course holds the appropriate subject
38 matter credential.

1 (8) Statewide testing results for online pupils are reported and
2 assigned to the school, school district, or county office of education
3 in which the pupil is enrolled for regular classroom courses.

4 (9) The online course is offered by a high school, *continuation*
5 *school, or county office of education.*

6 (10) No pupil is assigned to the online course unless the pupil
7 voluntarily elects to participate in the online course and the parent
8 or guardian of the pupil provides written consent before the pupil
9 participates in the online course.

10 (11) No pupil voluntarily electing to participate in the online
11 course is denied access because the pupil lacks the computer
12 hardware or software necessary to participate in the online course.

13 (12) No pupil is charged for his or her participation in the online
14 course.

15 (13) Pupils enrolled in the online course take examinations by
16 proctor or other reliable methods are used to ensure test integrity,
17 and there is a clear record of pupil work, using the same method
18 of documentation and assessment as used in a classroom-based
19 course.

20 (14) Contemporaneous records of the time that a pupil spends
21 online in the course and in related activities, and of the time the
22 teacher is online with pupils, are maintained by the school, school
23 district, or county office of education.

24 (c) A school district, county office of education, or charter
25 school offering an online course may contract with a school district
26 to provide an online course meeting all of the requirements
27 specified in subdivisions (a) and (b) to pupils of the offering school
28 district.

29 (1) A teacher of an online course shall be an employee of the
30 providing school district, and shall meet all of the requirements
31 for a teacher of an online course specified in subdivision (b).

32 (2) For the purposes of subdivision (a) of Section 46300 only,
33 a teacher meeting the requirements of paragraph (1) shall be
34 deemed to be an employee of the offering school district, county
35 office of education, or charter school.

36 (3) Contract terms shall be determined by mutual agreement of
37 the school districts.

38 (4) School districts that provide online courses pursuant to the
39 contract shall contract directly with the offering school district,
40 county office of education, or charter school, and shall not enter

1 into direct contracts with the pupils of the offering school district
2 or otherwise attempt to enroll those pupils.

3 (d) Nothing in this section shall be interpreted to mean that a
4 charter school provides classroom-based or nonclassroom-based
5 instruction for the purposes of the state board determination made
6 pursuant to Section 47612.5.

7 (e) Attendance accounted for pursuant to subdivision (a) and
8 compliance with the requirements of subdivision (b) are subject
9 to the audit conducted pursuant to Section 41020.

10 (f) No provision of this section may be waived unless the waiver
11 is specifically authorized in statute.

12 (g) The Superintendent, in consultation with the Director of
13 Finance, on or before December 31, 2011, shall do all of the
14 following:

15 (1) Make revisions to any attendance accounting manual or
16 guidance provided to school districts, county offices of education,
17 or charter schools that are necessary to conform to this section.

18 (2) Make revisions to any attendance accounting manual or
19 guidance provided to school districts, county offices of education,
20 or charter schools that are necessary to clarify attendance
21 accounting procedures for asynchronous online courses.

22 (3) Make recommendations to the appropriate policy and fiscal
23 committees in both houses of the Legislature and to the Governor
24 regarding statutory changes that would be necessary to allow pupil
25 attendance in asynchronous online courses to be included in the
26 calculation of average daily attendance pursuant to Section 46300.

27 *(h) Pupil attendance in asynchronous online courses shall not*
28 *be included in the calculation of average daily attendance pursuant*
29 *to Section 46300 until the Superintendent has adopted rules and*
30 *regulations pursuant to subdivision (l).*

31 ~~(h)~~

32 (i) For the purposes of calculating average daily attendance
33 pursuant to Section 46300 and meeting the minimum instructional
34 time requirements specified in paragraph (3) of subdivision (a), a
35 pupil engaged in educational activities in an online course meeting
36 the requirements of subdivisions (a) and (b) shall be deemed to be
37 under the immediate supervision and control of an employee of
38 the district or county office who ~~possessed~~ *possesses* a valid
39 certification document, registered as required by law, and shall be
40 deemed to be attending at the schoolsite of the charter school.

1 ~~(i)~~

2 (j) For the purposes of calculating average daily attendance
3 pursuant to Section 46300, a school district, county office of
4 education, or charter school claiming pupil attendance in an online
5 course meeting the requirements of subdivision (b) shall not be
6 required to meet the requirements of Article 5.5 (commencing with
7 Section 51745) of Chapter 5 of Part 28.

8 ~~(j)~~

9 (k) For the purposes of this section, the following definitions
10 apply:

11 (1) “Asynchronous online course” means a course where the
12 teacher and pupil ~~are~~ *may be* online at different times and are
13 unable to interact simultaneously.

14 (2) “Biometric” *means any means by which a person can be*
15 *uniquely identified by evaluating one or more distinguishing*
16 *biological traits. Unique identifiers within the meaning of this*
17 *paragraph include, but are not necessarily limited to, fingerprints,*
18 *hand geometry, voice waves, and signatures.*

19 ~~(2)~~

20 (3) “Synchronous online course” means a course where the
21 teacher and pupil are online at the same time and able to interact
22 at that time.

23 ~~(k) The Superintendent~~

24 (l) *The Superintendent, in consultation with the Department of*
25 *Finance, shall adopt rules and regulations, pursuant to the*
26 *rulemaking provisions of the Administrative Procedure Act,*
27 *Chapter 3.5 (commencing with Section 11340) of Part 1 of Division*
28 *3 of Title 2 of the Government Code, for the purpose of clarifying*
29 *both of the following purposes:*

30 (1) *Clarifying or expanding the procedures required for verifying*
31 *the identification of pupils participating in asynchronous online*
32 *courses meeting all of the requirements of subdivisions (a) and*
33 *(b).*

34 (2) *Including pupil attendance in asynchronous online courses*
35 *in the calculation of average daily attendance pursuant to Section*
36 *46300. The Superintendent shall ensure that the rules and*
37 *regulations adopted for this purpose are consistent with the*

- 1 *revisions and recommendations required pursuant to subdivision*
- 2 *(g).*

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